

VERMONT SUPERIOR COURT  
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FAMILY DIVISION  
Case No. 22-ER-01801; 22-FA-1811

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State of Vermont v. Peter Newton

Michele Christopher v. Peter Newton

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Decision and Order

This matter came before the Court on July 7, 2022, regarding the State's Petition for an Extreme Risk Protection Order in Docket No. 22 ER 1801. Respondent is also the defendant in a Relief from Abuse matter in Docket No. 22 FA 1811. Both matters were set for hearing on July 7, 2022. Deputy State's Attorney Rory Thibault was present for the State in 22 ER 1801; Plaintiff Michele Christopher was present with Attorney Cynthia Broadfoot in 22 FA 1811. Respondent, Peter Newton, was present *pro se*. The Court consolidated the two cases for judicial economy.

In light of the admitted exhibits and credible testimony, the Court issues the following Findings, Conclusions, and Order.

*Findings*

The Court makes the following findings by clear and convincing evidence:

The State filed their Extreme Risk Protection Complaint on June 28, 2022. That same day, the Court granted *ex parte* temporary relief and issued a Temporary Extreme Risk Protection Order. This matter was transferred from Addison County to Chittenden County.

Respondent is the elected Addison County Sheriff. On March 3, 2022, Vermont State Police ("VSP") conducted an investigation into a domestic disturbance that occurred on February 26, 2022, regarding allegations of sexual and physical abuse by Peter Newton against his then partner. The incident was initially investigated by the Middlebury Police Department but was transferred to the VSP due to Mr. Newton's position as Addison County Sheriff.

On April 27, 2022, a local news media outlet, the Vermont Digger, posted an article regarding the Vermont State Police investigation against Peter Newton. Prior to the publication of this report, the VSP investigation was not public information and Respondent was quoted in the article as stating he had "no idea such an investigation was taking place."

On May 1, 2022, Defendant posted a video on YouTube that referenced the VSP investigation. The video lasts approximately 20 minutes. Respondent is speaking into his camera while seated in his car. He expresses how “worn out” and “exhausted” he is and, in reference to being the sheriff, that he “did not want to do it anymore.” He mentions suffering from PTSD and anxiety and that he struggles with nightmares. He often rambles throughout the video and mentions his ex-wife, Michelle Christopher, numerous times. He states that during their marriage he told her he was suffering as sheriff and her response was, “what about the money?” He mentions he had a plan to kill himself and he did not want to be with her. He states he is not enjoying things right now and revealed he had an affair with another woman, Emily. He muses that his ex-wife and her friends are out to ruin his name and blames his ex-wife for likely leaking information about the VSP investigation to the press. He blames others as well and names a variety of people who could have divulged the information. He states his ex-wife is determined to ruin his life when it comes to being a sheriff. He repeatedly states he is “tired” and “exhausted” and “hurts due to stress” and that he will not run for re-election for sheriff in February 2023. He states that “if I can get this out there’s nothing else they can hurt me with.” He references being suicidal in the past and putting up a good front. He credits his therapist as saving his life and states that going forward, he is in a good place. He discusses having a good life with his son and after February 2023, his plan on running a business with his sons. Respondent does not appear to possess a firearm during the video. He makes no reference to using any firearms. He makes no threats to harm himself or others.

Donald Sweet II, a deputy at the Addison County Sheriff’s Office, viewed the video and was sufficiently alarmed that he sent an email to the Commissioner of the Department of Public Safety, Michael Shirling, for advice on how to get Respondent help. He thought Respondent was potentially both homicidal and suicidal and wanted Respondent, and those around him, to remain safe. He did not believe Respondent was safe to continue acting as Sheriff. Deputy Sweet has known Respondent for approximately 25 years, having worked Rescue with him. Most recently, he has worked with Respondent as a deputy in the Sheriff’s Office for the past 2½ years. He noticed in the past two months that Respondent has appeared angry and paranoid. Based on his observations, he believes Respondent feels wronged by his ex-wife and has heard him call her names. His anger at her persisted throughout the year after his divorce. Respondent’s mother recently passed away and he knows that Respondent has experienced trauma through his work. When Deputy Sweet saw the video, Respondent’s behavior appeared so unstable that he was immediately concerned. He thought Respondent was “clearing the air,” which he has seen others do when contemplating suicide. He thought Respondent could be suicidal, as he was “calling everybody out.” He also had concerns that Respondent could hurt his ex-wife, due to Respondent’s anger at her and his belief that he had been wronged by her. Deputy Sweet opined it would not be safe for Respondent to carry a firearm or act as sheriff. Members of law enforcement offered Respondent help which he declined.

On May 10, 2022, Respondent’s daughter, Carly Newton, contacted the Vermont State Police due to her concerns. She believes her father’s mental health is declining and that he drinks regularly. She wanted to help the police understand who Respondent is and how he

operates. She sees her father only when he is watching Maxwell, Respondent's son, and her brother. In March 2021, Carly Newton and her partner were visiting Respondent when Respondent threatened her boyfriend to "get out" or he would "throw him in a snowbank." Carly and her boyfriend left without incident. Ms. Newton believes Respondent's behaviors are changing and that he is engaging in behaviors she has never seen before.

Peter Newton was arrested in late June 2022 and, in Docket No. 22 CR 05601, was charged with a 4-count information: 2 counts of felony sexual assault, one count of felony unlawful Restraint and one count of Domestic Assault.

In July 2021, approximately one year ago, Respondent expressed suicidal ideation involving a gun to his friend, Lori Ewell. He had been having bad dreams and nightmares due to the trauma of his position and thought about suicide with a gun. When Ms. Ewell asked him why he did not go through with it, Respondent pointed to a picture of his children and dog. Respondent had been seeing a therapist who helped him process his trauma. Ms. Ewell encouraged him to continue seeing his therapist and Respondent texted her a few weeks later stating his therapist had passed away.

Respondent was married to Michele Christopher. They have a son together, Maxwell, and they divorced in April 2021. Since their divorce, Respondent feels betrayed by Ms. Christopher (the aforementioned "ex-wife"). He is often angry at her and calls her "narcissistic" or "princess pleasure." She saw the article in the Vermont Digger in Spring 2022 that discussed the Vermont State Police investigation. She also saw the video he posted in May 2022 where he accused her of trying to ruin his name. When she learned that Respondent was being arrested in June, she had concerns for her safety due to his posts and the video he posted in May. Ms. Christopher expressed fear of Respondent, citing that his mental health has declined. She is afraid he will spiral downward and could be a danger to herself or others. He has never physically hurt Ms. Christopher or made any threats to harm her. She filed a Relief from Abuse Complaint on June 28, 2022 and the Court issued a Temporary Order that same day.

### *Conclusions*

This decision addresses both the State's request for an Extreme Risk Protection Order and the Plaintiff's request for a Relief from Abuse Order.

#### I: Petition for Extreme Risk Protection Order

Pursuant to 13 V.S.A. § 4053,

[t]he court shall grant the petition and issue an extreme risk protection order if it finds by clear and convincing evidence that the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

13 V.S.A. § 4053(e)(1). The statute states that an extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm, and that an extreme risk of harm to others may be shown by establishing that:

- (i) the respondent has inflicted or attempted to inflict bodily harm on another; or
- (ii) by his or her threats or actions the respondent has placed others in reasonable fear of physical harm to themselves; or
- (iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.

*Id.* § 4053(c)(2)(A) & (B).

The statute further states that the burden of proof required to establish the extreme risk of harm is that of “clear and convincing evidence.” *Id.* § 4053(e)(1). “Clear and convincing evidence is a ‘very demanding’ standard, requiring somewhat less than evidence beyond a reasonable doubt, but more than a preponderance of the evidence. The clear and convincing evidence standard does not require that evidence in support of a fact be uncontradicted, but does require that the fact’s existence be ‘highly probable.’” *In re E.T.*, 2004 VT 111, ¶ 12, 177 Vt. 405 (quoting *In re N.H.*, 168 Vt. 508, 512 (1998)) (citations omitted).

The State seeks an Extreme Risk Protection Order (“ERPO”) against respondent Peter Newton based substantially upon Respondent’s May 2022 posting of a video on YouTube, which he soon after took down, and his friends’ and family members’ responses to that video. It is clear that all who know and care for Peter Newton observed a significant decline in his mental health that was evidenced in the video. They were justifiably concerned for his safety, and potentially the safety of others, given his rambling and troubled state. However, in order to issue a Final Extreme Risk Protection Order, this Court must find either that Respondent poses an extreme risk of causing harm to himself or another person by clear and convincing evidence. Neither the video evidence nor the testimony presented support such a finding.

The video and testimony refer to Respondent contemplating suicide in July 2021, nearly one year ago. No evidence was presented of a more recent suicide attempt or ideation, or any evidence of him causing or attempting to cause himself or others serious bodily harm, or any recent threat of either. Moreover, in the video, Respondent mentions seeking professional help for his past suicidal ideation and that working with a counselor helped him.

An extreme risk of harm may be shown by establishing that the respondent has threatened or attempted suicide. The question for the Court is whether Respondent’s suicidal ideation one year ago establishes by clear and convincing evidence that he presents an extreme risk of harm to himself now. The Court does not so find.

The statute does not define what constitutes an “extreme risk,” thus the Court must interpret that term. “Our goal in interpreting a statute is to carry out the intent of the Legislature. We start with the plain language of the statute, and if the meaning is clear, we will enforce it according to its terms. In doing so, we presume that all language in a statute was drafted

advisedly, and that the plain ordinary meaning of the language used was intended.” *State v. Richland*, 2015 VT 126, ¶ 6, 200 Vt. 401 (internal citations and quotations omitted).

An “extreme” risk would be one “existing in a very high degree.” *Extreme*, *Merriam-Webster Dictionary*, <https://www.merriam-webster.com/dictionary/extreme>. However, this standard does not define a time limit as compared with that required for an *ex parte* or emergency order, which requires evidence of an “*imminent and extreme risk*.” 13 V.S.A. § 4054(a)(2) & (b)(1) (emphasis added). “[T]he rules of statutory construction normally demand that we accord significance to variations in legislative language.” *Ins. Co. of State of Pennsylvania v. Johnson*, 2009 VT 92, ¶ 9, 186 Vt. 435. Thus, an “extreme risk” need not be “imminent” to support a final ERPO. However, a question arises as to what temporal remove can support an extreme risk.<sup>1</sup>

By definition, an “extreme” risk implies a present risk, as it is an *existing* risk, not one that *existed*. This interpretation is supported by looking to analogous statutory schemes that involve deprivations of liberty based on the risk of future conduct. See *State v. Blake*, 2017 VT 68, ¶ 8, 205 Vt. 265 (“We look also to other relevant or related statutes for guidance, because a proper interpretation must further the entire statutory scheme.” (quotations omitted)). For example, in the context of involuntary mental health treatment, one of the due process protections built into Title 18 is that “[t]he Vermont statute requires evidence that the proposed patient presents a *present* danger of harm to himself or others, as evidenced by threats or behavior.” *In re L.R.*, 146 Vt. 17, 21 (1985) (emphasis added)). In the context of bail and recognizances, the Court must consider the defendant’s present circumstances in imposing conditions of release to prevent a risk of flight. *State v. Cyr*, 134 Vt. 460, 462 (1976) (reversing imposition of conditions of release because trial court “simultaneously failed to deal with the defendant’s present right to bail”).

Thus, the Court interprets the ERPO statute as requiring that the extreme risk be present at the time of the hearing. Thus, the State’s burden is to demonstrate by clear and convincing evidence that Respondent exhibits a present extreme risk of harm to himself.

Applying this standard, the State’s evidence does not meet the statutory standard. The video did not contain a threat of suicide or statement that Respondent was presently contemplating suicide. Further, the length of time that has passed since the alleged suicide

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<sup>1</sup> An ERPO represents a deprivation on the respondent’s liberty and property interests—specifically, his liberty and property interest in possessing firearms. See *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111, 2134 (2022) (“[T]he ‘textual elements’ of the Second Amendment’s operative clause— ‘the right of the people to keep and bear Arms, shall not be infringed’—‘guarantee the individual right to possess and carry weapons in case of confrontation.’”). “The Fourteenth Amendment to the U.S. Constitution protects persons against state deprivations of ‘life, liberty, or property, without due process of law.’” *Wool v. Off. of Pro. Regul.*, 2020 VT 44, ¶ 20, 212 Vt. 305. “It is a basic principle of due process that a legislative enactment is invalid if it imposes a burden on the exercise of a person’s liberty for failure to conform his conduct to a standard that is ‘so vague and indefinite that no one could know what it (is).’” *Rutherford v. Best*, 139 Vt. 56, 60 (1980). Though no party has raised a vagueness challenge to the ERPO statute, the Court endeavors to interpret “extreme risk” to conform with due process. *Kimbell v. Hooper*, 164 Vt. 80, 88 (1995) (“Laws are to be interpreted in a reasonable way to avoid constitutional overreaching.”).

attempt in July 2021 without further incident and the fact that Respondent both admits the attempt in the video and that he sought professional help for his suicidal ideation mitigate against finding that Respondent currently presents an extreme risk of harm to himself based on the past suicide attempt.

The one line in the video that does raise some concern for the Court is Respondent's statement that "if I can get this out there's nothing else they can hurt me with." This line in particular could be interpreted as an indication that Respondent has cleared his name and revealed all his secrets, perhaps in an attempt to establish his version of the facts prior to ending his life. The witnesses testifying certainly understood this and the other statements in the video to represent evidence that Respondent was planning to end his life. However, such supposition is far from clear and convincing evidence that Respondent represents a present extreme risk of harm to himself. While the video clearly represents in the eyes of those who testified evidence that Respondent is experiencing a mental health crisis, the video and testimony fail to establish clear and convincing evidence that he presents an extreme risk of harm to himself.

The video and testimony further fail to establish by clear and convincing evidence that Respondent poses an extreme risk of causing harm to another person. At no point in the video does Respondent threaten anyone. He clearly identifies individuals whom he believes are against him, and states various allegations of improper conduct by those individuals both with him and individually; however, he does not state any intent to do anything about these alleged slights other than to reveal them in the video and to not run for office in 2023 to pursue alternative employment with his sons. While the above-mentioned quote from the video could be interpreted as Respondent preparing to take some retaliatory action against those people, again, this supposition is far from clear and convincing evidence of an extreme risk of harm to others.

The other evidence offered also does not establish clear and convincing evidence of an extreme risk of harm to others. No evidence was presented that Respondent has inflicted or attempted to inflict bodily harm on another. While Respondent was arrested on charges alleging violent conduct, no evidence was submitted as to these charges in the instant hearing, only the charges themselves, which are not evidence. Ms. Newton's allegations concerning Respondent's threat to throw her boyfriend into a snowbank if they did not leave his home in February does not represent clear and convincing evidence that Respondent, by this threat, placed either Ms. Newton or her boyfriend in reasonable fear of present physical harm to themselves. No evidence was submitted that Respondent presents a danger to persons in his care. As a result, the State has failed to establish clear and convincing evidence that Respondent presents an extreme risk of harm to others at the time of the hearing.

The Court denies the State's petition for an extreme risk protection order and VACATES the June 28, 2022 Temporary Order.

## II: Relief from Abuse Petition

Plaintiff Michele Christopher seeks a final relief from abuse order against Defendant Peter Newton. "[T]o obtain relief under the abuse-prevention statute, a plaintiff need prove only:

(1) that a family or household member abused her by ‘[a]ttempting to cause or causing [her] physical harm,’ placing her ‘in fear of imminent serious physical harm,’ or stalking her; and (2) that there is a danger of future abuse. 15 V.S.A. §§ 1101(1), 1103(c).” *Raynes v. Rogers*, 2008 VT 52, ¶ 8, 183 Vt. 513. Plaintiff has failed to establish the first necessary element. No evidence was presented that Defendant has abused her by attempting to cause or causing her physical harm, or that he has engaged in stalking her.

As to the element of fear of imminent serious physical harm, the plaintiff’s burden is to demonstrate “an objectively reasonable fear” of such harm. *McCool v. Macura*, 2019 VT 85, ¶ 10, 211 Vt. 263; see also *Doyle v. Lourenco*, No. 2014-168, 2015 WL 570080, at \*2 (Vt. Feb. 6, 2015) (unpublished mem.) (“[T]he fear plaintiff felt must be of imminent serious physical harm, as opposed to an unspecified subjective fear.”).<sup>2</sup> Though Plaintiff testified that she has concerns for her safety due to the video and fears Defendant based on this and other evidence she feels represents a decline in his mental health, the Court finds her testimony to reflect an unspecified subjective fear rather than an objective fear of imminent serious physical harm. Defendant has never physically harmed Plaintiff or threatened to do so. He does not make any threat against her in the video, nor did she testify to him making any express or implied threats to her. The evidence presented does not establish by the preponderance of the evidence that Defendant has placed her in fear of imminent serious physical harm.

Plaintiff has failed to meet her burden to obtain a relief from abuse order. The complaint is denied and the Temporary Order is vacated.

#### *Order*

The State’s petition for an Extreme Risk Protection Order against Peter Newton is denied and the Temporary Order is VACATED.

Plaintiff Michele Christopher’s complaint seeking a relief from abuse order against Peter Newton is denied and the Temporary Orders are VACATED.

Given that the moving parties have failed to establish a prima facie case, no further hearing is necessary and the hearing on July 22, 2022 is cancelled.

So Ordered.

Electronically signed: 7/22/2022 10:32 AM pursuant to V.R.E.F. 9(d).

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<sup>2</sup> “An unpublished decision by a three-justice panel may be cited as persuasive authority but is not controlling precedent.” V.R.A.P. 33.1(d)(1).

A handwritten signature in black ink, reading "Kirstin K. Schoonover". The signature is written in a cursive style with a vertical line at the beginning of the first name and a horizontal line at the end of the last name.

Kirstin K. Schoonover  
Superior Court Judge